

CLAUSE I-51 – FEDERAL, STATE, AND LOCAL TAXES (NONCOMPETITIVE SUBCONTRACT) (August 2002)

**NOTE:** This clause is applicable in fixed-price noncompetitive subcontracts when the subcontract exceeds the small purchase limitation (\$25,000) to be performed wholly or partly within the United States, its possessions, or Puerto Rico.

- (a) "Subcontract date," as used in this clause, means the effective date of this subcontract and, for any modification to this subcontract, the effective date of the modification.

"All applicable Federal, State, and local taxes and duties," as used in this clause, means all taxes and duties, in effect on the subcontract date, that the taxing authority is imposing and collecting on the transactions or property covered by this subcontract.

"After-imposed tax," as used in this clause, means any new or increased Federal, State, or local tax or duty, or tax that was excluded on the subcontract date but whose exclusion was later revoked or amount of exemption reduced during the subcontract period, other than an excepted tax, on the transactions or property covered by this subcontract that the Subcontractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the subcontract date.

"After-relieved tax," as used in this clause, means any amount of Federal, State, or local tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this subcontract, but which the Subcontractor is not required to pay or bear, or for which the Subcontractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the subcontract date.

"Excepted tax," as used in this clause, means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. "Excepted tax" does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this subcontract, or any tax assessed on the Subcontractor's possession of, interest in, or use of property, title to which is in SURA.

- (b) Unless otherwise provided in this subcontract, the subcontract price includes all applicable Federal, State, and local taxes and duties.
- (c) The subcontract price shall be increased by the amount of any after-imposed tax, or of any tax or duty specifically excluded from the subcontract price by a term or condition of this subcontract that the Subcontractor is required to pay or bear, including any interest or penalty, if the Subcontractor states in writing that the subcontract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Subcontractor's fault, negligence, or failure to follow instructions of the Subcontracting Officer.
- (d) The subcontract price shall be decreased by the amount of any after-relieved tax. SURA shall be entitled to interest received by the Subcontractor incident to a refund of taxes to the extent that such interest was earned after the Subcontractor was paid by SURA for such taxes. SURA shall be entitled to repayment of any penalty refunded to the Subcontractor to the extent that the penalty was paid by SURA.
- (e) The subcontract price shall be decreased by the amount of any Federal, State, or local tax, other than an excepted tax, that was included in the subcontract price and that the Subcontractor is required to pay or bear, or does not obtain a refund of, through the Subcontractor's fault, negligence, or failure to follow instructions of the Subcontracting Officer.
- (f) No adjustment shall be made in the subcontract price under this clause unless the amount of the adjustment exceeds \$250.
- (g) The Subcontractor shall promptly notify the Subcontracting Officer of all matters relating to Federal, State, and local taxes and duties that reasonably may be expected to result in either an increase or decrease in the subcontract price and shall take appropriate action as the Subcontracting Officer directs. The subcontract price shall be equitably adjusted to cover the costs of action taken by the Subcontractor at the direction of the Subcontracting Officer, including any interest, penalty, and reasonable attorneys' fees.
- (h) SURA shall furnish evidence appropriate to establish exemption from any Federal, State, or local tax when (1) the Subcontractor requests such exemption and states in writing that it applies to a tax excluded from the subcontract price and (2) a reasonable basis exists to sustain the exemption.